

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court on September 14, 2021, for a video motion hearing on Defendant Whited's Second Motion to Continue Trial [Doc. 30], filed on August 25, 2021. Defendant Whited asks the Court to continue the September 14, 2021 trial date in this case to give defense counsel an opportunity to make a full resolution of this issue before trial and because of the need for additional time. Assistant United States Attorney Alan Kirk appeared by video on behalf of the government. Attorney Stephen Ferrell filed the instant motion and was present for Defendant; however, Attorney Mark Brown was substituted as counsel for Defendant earlier in the hearing and also appeared for Defendant. Defendant was present by video.

The motion states that additional time is needed for Defendant's counsel to have an opportunity to make a full resolution of the case before trial and that it will serve the ends of justice in that the need for additional time to resolve crucial issues outweigh the best interest of the public and Defendant in a speedy trial. Defendant Whited was counseled on the instant motion and is not opposed to the requested continuance. At the hearing, it was also argued that additional time will

be needed for Defendant's new attorney to speak with Defendant, to consider any additional motions to be filed under leave of the Court, and to generally prepare the case for trial. AUSA Kirk stated that the Government has no objection to the continuance. The parties agreed on a new trial date of February 15, 2022.

The Court finds Defendant's motion to continue the trial is unopposed by the Government and well-taken. The Court also finds that the ends of justice served by granting a continuance outweigh the interest of Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Court finds that the parties need additional time to resolve the case before trial or alternatively to prepare the case for trial. As well, Defendant's new attorney needs additional time to speak with Defendant and to prepare the case. The Government does not oppose the continuance.

The second motion to continue the trial [**Doc. 30**] is **GRANTED**. The trial of this case is reset to **February 15, 2022**. The Court finds that all the time between the filing of the motion on August 25, 2021, and the new trial date of February 15, 2022, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. *See* 18 U.S.C. § 3161(h)(1)(D) & -(7)(A)-(B). The Court also set a new schedule in this case, which is stated in detail below.

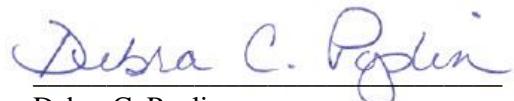
Accordingly, it is **ORDERED** as follows:

- (1) Defendant Whited's Second Motion to Continue Trial [**Doc. 30**] is **GRANTED**;
- (2) The trial of this matter is reset to commence on **February 15, 2022, at 9:00 a.m.**, before the Honorable Katherine A. Crytzer, United States District Judge;
- (3) All time between the filing of the motion on **August 25, 2021**, and the new trial date of **February 15, 2022**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The new deadline for filing a plea agreement in the record and providing reciprocal discovery is **January 14, 2022**;

- (5) The deadline for filing motions *in limine* is **January 31, 2022**;
- (6) The parties are to appear before the undersigned for a final pretrial conference on **February 1, 2022, at 2:00 p.m.**; and
- (7) Requests for special jury instructions with appropriate citations to authority pursuant to Local Rule 7.4. shall be filed on or before **January 4, 2022**.

IT IS SO ORDERED.

ENTER:



Debra C. Poplin
United States Magistrate Judge